IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.533 OF 2007

Rajesh Vimalchand Gothi ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri Ramrao Adik, Senior Counsel with Shri Ashish Gaikwad, adv. i/b Petter Lobo for the Applicant.

Shri Y.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 5th March, 2007.

P.C.:

1. Heard Mr.Adik, the learned senior counsel for the applicant and Mr.Shinde, the learned APP for the State. Perused the relevant documents.

2. The applicant seeks anticipatory bail in Crime No.4 of 2007 registered with Samata Nagar Police Station for the offences punishable under Sections 498A, 406 read with Section 34 of the I.P.C. on a report lodged by Mamta wife of the present applicant.

3. Prosecution case in brief is that, before marriage Mamta and the present applicant were distant relatives. However, in connection with business of her father, they came together and fell in love and finally the marriage took place on 13-7-2000 as per the Arya

Samaj rites and later on, parents of both the parties performed their marriage again as per the customary Hindu matrimonial rites in February, 2001. According to Mamta after the marriage she was being harassed. The present applicant had developed illicit intimacy with one Tamanna Kazi and due to this, relations between the two got strained. Her father had given an amount of Rs.10 lakhs to her for the purchase of flat and another amount of Rs.7 lakhs to her at the time of marriage. Thus, total amount of Rs.17 lakhs was given as a dowry. Certain articles and ornaments of the complainant Mamta are lying in the locker of the bank in the joint names of husband and wife. On her taking objections about the illicit relationship of the applicant and Tamanna Kazi, he tortured her physically and mentally and finally, she lodged a report with police on 3rd January, 2007 on the basis of which the offence came to be registered against the present applicant and his parents.

4. According to the applicant, his wife Mamta herself had illicit relations with husband of the present applicant’s sister and he was taking objection to that relationship and therefore, the relations between them got strained. They are living separately since May, 2006. He denied all the adverse allegations made against him. While on behalf of the applicant, it

is contended that he was always co-operating in interrogation and even he is willing for opening the locker with the bank and for that purpose, twice he was called by the police inspector Mr.Chavan and he went to the police station alongwith the key of the locker but Mamta herself did not appear and the locker could not be opened because the second key is with her.

5. On behalf of the prosecution, it is contended that the custodial interrogation of the present applicant is necessary. Firstly, for recovery of the ornaments and other articles lying in that locker. Secondly, certain important documents showing illicit relationship of the applicant and Tamanna Kazi are lying at the place of his work, which he is not attending for sometime. Important photographs and other documents are also lying at the house of Tamanna Kazi but she has locked her house and presently her whereabouts are known only to the applicant. It is contended that out of the illicit relationship between the present applicant and Tamanna Kazi, she has given birth to a child and name of the present applicant is recorded as father. DNA test of the present applicant is required for that purpose.

6. After hearing the parties, it appears that the present applicant himself has made a complaint against

his wife to the police inspector, Samata Nagar Police Station on 12-5-2006 and that on two occasions, the applicant was present at the police station and also at the bank with the key but the locker could not be opened because Mamta herself did not appear either at the police station or at the bank. The learned senior counsel for the applicant makes a statement that the applicant will fully co-operate with the police for seizure of all the documents, which the police requires for the purpose of investigation of the case. In fact, all those documents are regarding the alleged illicit relationship of the present applicant and Tamanna Kazi and they are not strictly about cruelty meted out to Mamta by the present applicant. D.N.A. Test may also be necessary for that purpose. However for none of these purposes, custodial interrogation of the applicant is required. If he is made to appear at the police station, the purposes may be served.

7. For the aforesaid reasons, in the event of arrest in Crime No.4 of 2007, the applicant be released on his executing P.R.Bond of Rs.15,000/- with surety of like amount with condition that he shall fully co-operate with the police for interrogation and investigation of the case particularly about opening of the locker with the bank, production of documents, which

are allegedly lying at his work place and at the house of Tamanna Kazi as also for D.N.A.Test. The applicant shall appear before the Samata Nagar Police Station on 7th March, 2007 at 11.00 a.m. and shall also appear at the police station as and when he is required thereafter.

(J.H.Bhatia,J.)